

**ONE M STREET, SE
WASHINGTON, DC
CAPITOL GATEWAY OVERLAY DISTRICT**

PREHEARING STATEMENT OF THE APPLICANT

**TO THE DISTRICT OF COLUMBIA ZONING COMMISSION
FOR REVIEW AND APPROVAL OF BUILDINGS AND STRUCTURES
ON M STREET AND SOUTH CAPITOL STREET, SE,
PURSUANT TO THE CAPITOL GATEWAY OVERLAY DISTRICT PROVISIONS**

Z.C. CASE NO. 15-11

JUNE 5, 2015

HEARING DATE: JUNE 25, 2015

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I. **INTRODUCTION**

This statement is submitted on behalf of SQ700 Trust L L C (the "Applicant") in support of an application to the Zoning Commission for review and approval of a proposed office building at the southeast corner of the intersection of M Street and South Capitol Street, with proposed premises address of One M Street, SE. The application was submitted pursuant to sections 1604, 1605 and 1610 of the Zoning Regulations (11 DCMR), which apply to new construction on any lot that abuts M Street and South Capitol Street, SE, and includes requests for (1) area variance from the requirement of section 1604 3, which regards street wall setbacks for buildings along M Street, SE, and (2) special exception approval relating to penthouse setbacks for CR-zoned properties, as set forth in section 630 4(b) of the Zoning Regulations. As discussed below, the application satisfies the requirements of the Capitol Gateway (CG) overlay District and the requirements for special exception and variance relief.

II. **BACKGROUND**

A. Site and Vicinity Characteristics

1. The Property

The Property consists of Lots 43 and 866 in Square 700. Square 700 is bounded by M Street on the north, South Capitol Street on the west, Van Street on the east, and N Street on the south. The Property, which is rectangular in shape and measures approximately 35,558 square feet, is located in the northern portion of the square, with frontage on M Street, South Capitol Street, and Van Street. It is currently unimproved and utilized as a temporary seasonal surface.

parking lot for baseball games. The Property is bounded to its south by private property (Lot 44), which is improved with a five-story brick building.

The Property is included in a mixed commercial-residential (CR) zoning district and is located in the Capitol Gateway (CG) overlay, at the intersection of the two main axes of the district: M Street, running in an east-west direction, and South Capitol Street, running north-south. It marks the informal entrance from the west and north to the Southeast Federal Center and Navy Yard as well as the ballpark district. At the same time, South Capitol Street serves as a primary arterial for vehicular traffic between Anacostia to the South and Capitol Hill to the north.

Within the CG overlay, the Zoning Regulations provide that the residential and nonresidential floor area on each individual parcel within the CR District shall not exceed a maximum floor area ratio of 8.5 on parcels for which a height of 130 feet is permitted by the General Height Act of 1910 (the "Act"). 11 DCMR §1602.1(a). As a result of the Property's frontages on M Street and South Capitol Street, 130 feet of height is permitted under the Act. In addition, the Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of sections 1601 and 1604-1607, as applicable. To that end, the Applicant submits the present application for new office construction and is in process of submitting a companion application for review of a separate residential building to be located on the Property.

B. Description of Proposed Construction

The Applicant proposes to develop the northern portion of the Property with a new 10-story office building with ground floor preferred uses. Three levels of below-grade parking will

be provided with access from Van Street, SE. Overall building height will not exceed 130 feet, and gross floor area for the building will total approximately 124,362 square feet. The Applicant is currently finalizing proposed drawings for a 13-story multi-family residential building to occupy the southern portion of the Property and plans to submit an application for the project to the Zoning Commission in the next several weeks with construction of the two buildings contemplated to be executed simultaneously. While the two buildings will operate as separate buildings and will not be connected, they ultimately will share a single record lot once the current lots comprising the Property are consolidated by subdivision plat. Access to the parking garage for the office building will be provided under a portion of the residential building.

As the Commission will recall, the Applicant recently withdrew a long-pending application (No. 09-22) related to the Property submitted by the previous owner of the Property, which application proposed a twelve-story office building with ground floor preferred uses for the entire site. Advisory Neighborhood Commission (ANC) 6D, the ANC within whose boundaries the Property is located, expressed opposition to the earlier design as not sufficiently addressing the gateway location of the Property into the neighborhood along M Street as well as its location along this stretch of South Capitol Street. As demonstrated in the enclosed drawings, the design for the building has been completely reconsidered, with a focus on the Property's unique location in this neighborhood, including opposite the historic St. Vincent De Paul Church immediately across M Street, as well as the efforts to establish a more monumental presence along South Capitol Street. Further driving the innovative design for the new office building is the fact that it has been uniquely designed for its future occupant, the National Association of Broadcasters, which sought out the site in order to relocate its headquarters to this burgeoning and increasingly vibrant community.

The building presents as a ten-story, 130-foot tall, masonry and glass office building with ground level preferred uses, stepping back along South Capitol Street above the eighth floor consistent with the requirements of the CG overlay. The three street-facing elevations of the building, along South Capitol, M and Van Streets, respectively, all share a strong masonry frame, in the form of dark stone at the ground level and lighter precast concrete above. Variation in the patterning of this grid, in coordination with aluminum panels and a mix of fenestration types, establish a unique cadence for each of the facades.

Along South Capitol Street, the combination of the required setback and the mixture of types and colors of pre-cast materials, establishes a horizontality that is in keeping with the monumental focus of South Capitol Street. This approach also provides a deferential context to the historic church located immediately to the north, including patterning of the precast framework of the office building that subtly responds to the design language of the church, particularly the tower/campanile element. Please see Exhibit A, Sheets 25, 33 and 34.

Behind this monumental façade, the Applicant has attempted to “turn the corner” toward M Street through a wave-like glass curtain wall above the second level of the M Street façade. This design feature, created through a combination of projection across the M Street setback line and related recess into the building envelope, draws the attention of passers-by going south along South Capitol as well as west along M Street to this gateway into the neighborhood and to the building’s lobby. At the same time, this undulating wall serves to gradually transition the building’s height from South Capitol to Van Street and to mark the building’s entrance. Please see Exhibit A, Sheets 26, 31 and 33.

Finally, the building's frontage along Van Street, a much narrower public right of way which conveys more of the personality of an alley, is presented with a pseudo-industrial

architectural treatment in the form of a heavy irregular concrete grid frame, evocative of the neighborhood's history, while in keeping with the design and materiality of the primary facades Please see Exhibit A, Sheets 27 and 35 Vehicular entrances for parking and loading purposes are provided along this frontage as required under the CG overlay

Following to the submission of its application, the Applicant has continued to study and refine its design, as illustrated in the updated booklet of drawings included herein as Exhibit A The Applicant requests that this updated booklet of drawings supersede and replace the booklet filed with the application and included as Exhibit 8 of the record in this case Refinements included in this updated booklet include the following

- Site plan/streetscape/landscape refinements, including tree added to M Street, bike racks added, landscape strips widened, vault locations shifted on South Capitol Street,
- GAR factor increased to 0.22 due to additional green roof area provided
- Temporary South Elevation drawing – party wall elevation provided
- Separate architectural material and character examples provided
- View up and down M street changed to provide enhanced context
- Physical model photographs provided

The Applicant also intends that the Building will incorporate a number of elements to enhance its sustainability and expects the finished building would qualify for at least LEED Silver NC 2009 should the Applicant pursue certification To that end, the Applicant has included an updated draft LEED checklist identifying those elements and features the Applicant may pursue in satisfaction of its sustainability commitment The Building will include significant green roof elements, located at terrace level, on the main roof as well as on the penthouse roof The building design also satisfies the Green Area Ratio ("GAR") requirements of Chapter 34 of the Zoning Regulations

III.
BURDEN OF PROOF

A. Capitol Gateway Overlay District (Sections 1604, 1605 and 1610)

1 The Proposed Project Complies with the Requirements of Section 1604

Section 1604 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on M Street within the CG Overlay District. As outlined in the table below, the proposed project satisfies the requirements of section 1604.

Section	Requirement	Compliance	Explanation
1604.1	The following provisions apply to new buildings, structures, or uses with frontage on M Street S E within the CG overlay.	Applies	Section 1604 is triggered in this case because the proposed building will have frontage along M Street, S E within the CG Overlay District.
1604.2	No driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building.	Yes	There will be no driveways along M Street. The below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE.
1604.3	The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S E.	No	Variance is requested. The Applicant is proposing a curvilinear projection of approximately 9 feet maximum depth across the set back line, as demonstrated in the attached drawings. The projection would occur only at the third floor and above. A related curvilinear recess in the building of similar size is provided at the building entrance. This design feature is provided in an attempt to both tie together the distinct façade treatments of South Capitol and M Streets as well as to provide a needed marker for the building entrance.

Section	Requirement	Compliance	Explanation
1604 4	Each new building shall devote not less than thirty-five percent (35%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701 1 through 701 5 and §§ 721 1 through 721 6 of this Title, provided, that the following uses shall not be permitted automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building) Such preferred uses shall occupy 100% of the building's street frontage along M Street, except for space devoted to building entrances or required to be devoted to fire control	Yes	The proposed building will provide at least 35 percent of the building's gross floor area on the ground floor One hundred percent of the building's street frontage along M Street will be occupied by preferred uses, with retail and broadcast/editing studio uses currently contemplated given that the building is being designed and constructed to serve as the headquarters for the National Association of Broadcasters
1604 5	For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604 4 by non-preferred uses for up to a five (5) year period, provided, that the ground floor space is suitably designed for future occupancy by the preferred uses	n/a	The Applicant is not requesting interim occupancy by non-preferred uses at this time If such interim relief becomes necessary, the Applicant will modify this application accordingly

Section	Requirement	Compliance	Explanation
1604 6	Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building	Yes	At least fifty percent of the surface area of the proposed building's streetwall along M Street will be covered by display windows with clear or low-emissivity glass and commercial entrances
1604 7	The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet	Yes	The portions of the building's ground floor devoted to retail uses along M Street will have a clear floor-to-ceiling height of no less than fourteen feet
1604 8	A building that qualifies as a Capitol South Receiving Zone site under § 1709 18 and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section	n/a	Because the Applicant has not yet applied for a building permit for the proposed project, section 1604 8 is not applicable to this application
1604 9	Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply	Yes	The building's design complies with this subsection

2 The Proposed Project Complies with the Requirements of Section 1605

Section 1605 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on South Capitol Street within the CG Overlay District. As outlined in the table below, the proposed project satisfies the requirements of section 1605

Section	Requirement	Compliance	Explanation
1605 1	The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG overlay	Applies	Section 1605 is triggered in this case because the proposed building will have frontage along South Capitol Street within the CG Overlay District

Section	Requirement	Compliance	Explanation
1605 2	Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet	Yes	The building's design complies with this subsection
1605 3	Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1 1) step-back from the building line along South Capitol Street	Yes	The building's design complies with this subsection
1605 4	No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.	Yes	There will be no driveways along South Capitol Street. The below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE.
1605 5	For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line	Yes	The building's design complies with this subsection

3 The Proposed Project Complies with the Requirements of Section 1610

Section 1610 2 of the Zoning Regulations provides that new construction on any lot abutting M Street, SE, or South Capitol Street within the CG Overlay District requires the review and approval of the Commission. Section 1610 3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of any building along M Street must comply with the specific requirements set forth in that section. As discussed herein, the proposed project is consistent with each of these requirements.

Under section 1610 3(a), any new building constructed along M Street, SE, must help achieve the objectives of the CG Overlay District as set forth in section 1600 2 of the Zoning

Regulations As illustrated in the table below, the proposed building is consistent with all of the applicable purposes of the CG overlay

Section	Requirement	Compliance	Explanation
1600 2(a)	Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area	Yes	The height, bulk, and design of the proposed project are consistent with the requirements of the Zoning Regulations and with the property's designation on the Future Land Use Map. The proposed building's height and FAR are allowed at this location, and the proposed use is consistent with the Property's designation on the Future Land Use Map. The commercial and retail/preferred uses contemplated by the project will help foster an appropriate mix of uses within the square and the surrounding area.
1600 2(b)	Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses	Yes	The proposed building will include significant space devoted to preferred retail or other preferred uses on the ground floor. This space will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600 2(b).
1600 2(c)	Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment	n/a	Because the Property is not currently used for industrial purposes, section 1600 2(c) is not applicable to this application.
1600 2(d)	Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points	n/a	Because the Property is not located along the Anacostia riverfront, section 1600 2(d) is not applicable to this application.

Section	Requirement	Compliance	Explanation
1600 2(e)	Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station	Yes	Aside from a lobby entrance, all of the building's street frontage along M Street will be occupied by preferred retail uses. Section 1604.3 requires all new buildings along M Street to be set back at least fifteen feet from the face of the adjacent curb. While the Applicant is requesting relief from this requirement, it is important to note that the proposed building complies with this setback requirement at the ground and second levels and, as such, will further the objectives of section 1600 2(e).
1600.2(f)	Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sports and entertainment and associated uses	n/a	Section 1600 2(f) does not apply to this application.
1600 2(g)	Provide for the establishment of South Capitol Street as a monumental civic boulevard	Yes	The design of the project, including the strong lines and materiality of the facade and streetscape improvements, all further the monumental focus of South Capitol Street.
1600 2(h)	Provide for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street façade to ensure adequate light and air, and a pedestrian scale	n/a	Because the Property is not located on Half Street, section 1600 2(h) is not applicable to this application.
1600 2(i)	Provide for the development of First Street, SE, as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront	n/a	Because the Property is not located on First Street, section 1600 2(i) is not applicable to this application.

In addition to requiring compliance with the purposes set forth in section 1600 2 and with the special exception standards of section 3104.1, section 1610 3 further provides that

an applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will [satisfy the specific requirements of this section]

11 DCMR § 1610.3 The Applicant's project satisfies the general standards of section 3104.1. Furthermore, the development will meet each of the specific requirements set forth in section 1610.3 as illustrated in the table below.

Section	Requirement	Compliance	Explanation
1610.1	The following provisions apply to properties located on a lot that abuts M Street, SE, on a lot located within Squares 700 or 701, north of the Ballpark site, on a lot that abuts South Capitol Street.	Applies	Section 1610 is triggered because the Property abuts M Street, SE, is located in Square 700, and abuts South Capitol Street.
1610.2	With respect to all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions:	Yes	The Applicant has filed an application for review and approval by the Zoning Commission as required by section 1610.2, and the Applicant's project complies with all applicable requirements of section 1610.
1610.3	The proposed building or structure must satisfy the standards set forth in section 3104 of the Zoning Regulations.	Yes	The project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. With the exception of the requested relief from the street wall and penthouse setback, the proposed building will comply with all applicable zoning requirements. As described below, approval of the requested variance and special exception will have no adverse effects on surrounding property and will not impair the purpose or intent of the Zoning Regulations.
1610.3(a)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the objectives of the CG Overlay District as set forth in section 1600.2.	Yes	As outlined in the table above, the project will further the objectives set forth in section 1600.2.

Section	Requirement	Compliance	Explanation
1610 3(b)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the desired mix of uses in the CG Overlay District as set forth in sections 1600 2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses	Yes.	As noted above, the proposed building will include significant and thoughtfully-designed space devoted to preferred uses, including potential retail and studio uses, on the ground floor and potential sidewalk café use, and will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600 2(b)
1610 3(c)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will be in context with the surrounding neighborhood and street patterns	Yes	The design of the building will be consistent with the height and massing of other existing and proposed buildings in the surrounding area. The attractive landscaping and sidewalk treatment will meet or exceed District standards and engage the building to the surrounding neighborhood.
1610 3(d)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize conflict between vehicles and pedestrians	Yes	The placement of access to the building's loading and parking facilities along Van Street, as the only one of the Property's street frontages where such curb access is permitted, will help minimize potential conflicts between vehicles and pedestrians. Further, the Applicant is proposing to locate the parking entrance under a portion of the residential building to the immediate south, thereby providing additional separation between curb cuts for the building, further minimizing potential conflicts. The Applicant's traffic impact study confirms that the project minimizes any conflict between vehicles and pedestrians and any negative impacts to public space usage.
1610 3(e)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize unarticulated blank walls adjacent to public spaces through façade articulation	Yes	As noted above, the Applicant has creatively addressed the Property's frontage along three public rights of way.

Section	Requirement	Compliance	Explanation
1610 3(f)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards	Yes	The project has been designed and will be constructed and operated with a goal toward sustainability and minimizing negative impact upon the environment To that end, the project will include a number of sustainable features, including low-E extensive green roofs and will be designed to qualify for a minimum of LEED NC 2009 Silver certification should the Applicant pursue such certification

B. Area Variance Relief from the M Street Setback Requirements

Section 1610 7 of the Zoning Regulations states that the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the Property and that such requests shall be advertised, heard, and decided together with the application for review and approval for compliance with the CG overlay provisions Pursuant to this provision, the Applicant requests area variance relief from the building setback requirements along M Street, SE, and penthouse setback, set forth in sections 1604.3 and 630 4(b) of the Zoning Regulations, respectively

The test for variance relief is three-part (1) demonstration that a particular piece of property is affected by some exceptional situation or condition, (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner, and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan As set forth below and will be addressed at the public hearing, variance relief is appropriate in this application

1 *Building Setback Along M Street, SE (§ 1604.3)*

Section 1604.3 of the Zoning Regulations provides, “the streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S E ” Given the Applicant's efforts to further the goals of the CG overlay to minimize unarticulated public space and to respond to community concerns raised in the predecessor application regarding the place-making role of the site, the Applicant proposes to transition from South Capitol to M Street by means of an undulating curtain wall, a portion of which is recessed into the building footprint matched by a portion that projects across the M Street setback line. This project only occurs at the third level and above. The street wall is maintained at the ground and second levels thereby providing the generous pedestrian passage the regulation was designed to ensure. While meeting the spirit of this subsection of the Regulations, area variance relief is nonetheless required, which relief is supported as follows.

A Exceptional Condition or Situation

The Property is exceptional in that it fronts on three streets within the CG overlay, and as such is exceptional in being subject to multiple required setbacks, percentage of street wall requirements and prohibitions in terms of location of required loading and parking egress. The exceptional nature of the Property is further demonstrated through the history of the Zoning Commission's earlier review in Application No. 09-22, wherein the Zoning Commission expressed its concurrence with the position of ANC 6D that the Property was a uniquely-sited property of exceptional importance to the neighborhood.

B Resulting Practical Difficulty

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant in that it will significantly constrain the Applicant's efforts to provide an exceptional design for this prominent property, with significant frontages and related design requirements along both its primary facades, and to dynamically respond to comments received from the community to earlier design proposals for the site. The wave-shaped projection, coupled with the related wave-shaped indentation in the M Street façade, allows the design to transition from the solid linear massing provided to emphasize the monumentality along South Capitol Street to the, taller, more active and pedestrian-focused M Street elevation. It also provides the Applicant a needed opportunity to highlight the building's entrance along a largely monolithic stretch of M Street. Absent relief from the setback requirement, the Applicant's efforts to provide an iconic focal point at this gateway intersection while harmoniously relating the designs of the principal facades of this corner location will be significantly compromised.

C No Harm to Public Good or Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As noted above, any impacts of the grant of variance relief from the setback requirements are not experienced at a pedestrian level, as the fifteen foot street wall setback is maintained at the ground and second levels. The projection will provide an interesting visual element from both vantages along M Street as well as from traffic along southbound South Capitol Street. See Exhibit A, Sheets 34 and 35. Furthermore, given that the projection does not begin until the third level of the building and above, there will be no negative impact upon pedestrian traffic along M Street, as provided in section 1600 2(e). As found by the Commission and confirmed by the Office of Planning in Order No. 08-30 for

another property in the CG overlay requesting relief from section 1604 3, "the required set back is provided at the ground floor to allow for wide sidewalks to promote the pedestrian experience " As the pedestrian experience is not compromised by the proposed projection but rather arguably enhanced by the activated streetscape, approval of the requested relief will neither harm the public good or the zone plan

C. Special Exception Approval related to Penthouse Setback

Out of an abundance of caution, special exception approval also is requested from the roof structure setback requirements of section 630 4(b) of the Zoning Regulations. The Applicant is proposing a curving penthouse that follows the contour of the wave-like curtain wall See Exhibit A, Sheets 19 and 23 As demonstrated in the roof level plan, the penthouse is setback almost 40 feet from the required South Capitol Street street wall However, as a result of the CG overlay requirement to step back the building above 110 feet in height, the ninth and tenth floors of the building are recessed from the street wall. The Applicant requests special exception approval to allow a roof structure which does not set back above the recessed tenth floor the required 1 1 distance along one small "pinch point" of the penthouse, where a setback with a ratio of roughly 0 84 1 is provided. All other portions of the roof structure comply with the setback requirement from exterior walls

Section 630 4 provides in relevant part, "if housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows. (a) it shall meet the requirements of § 411, and (b) it shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located "

Under section 411 11 of the Regulations, the Board of Zoning Adjustment may approve the location, design, number, or any other aspect of a roof structure even if it does not comply with the requirements of section 630 4, where it would be impractical because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area that would make full compliance unduly restrictive, prohibitively costly or unreasonable. The Board, and by extension the Zoning Commission pursuant to section 1610 7, has the power to approve a roof structure under section 411 11, provided that the intent and purpose of the chapter and title of the Zoning Regulations are not materially impaired by the structure, and the light and air of adjacent buildings are not affected adversely.

The Applicant's roof level plan is in keeping with the purpose and intent of the Zoning Regulations. The only portion of the 18'6" tall penthouse that does not technically comply with the 11' setback from the tenth floor level is that portion that is immediately adjacent to the elevator control room in order to provide adequate access to that space. In turn, the location of the elevators is required by the location and dimension of the loading facilities in the building as well as the curvature proposed for the design of the building. In this one location of the penthouse, a slightly reduced setback of 15'5" is provided. This reduced setback will still provide more than 35 feet of setback from the South Capitol street wall. For the above stated reasons, special exception approval from the penthouse setback requirement of section 630 4(b) is appropriate in the instant case.

IV.
LIST OF WITNESSES

The following witnesses may provide testimony at the Commission's public hearing on the application

- 1 Representatives of the Applicant,
2. William Hellmuth, Architecture, HOK,
- 3 Brandon Hartz, Landscape Architecture, HOK;
- 4 Steven E Sher, Director of Zoning and Land Use Services, Holland & Knight LLP,
- 5 Daniel Van Pelt, Gorove/Slade Associates, Inc

V.
EXHIBITS IN SUPPORT OF THE APPLICATION

The following exhibits are attached to this statement in further support of the application

- Exhibit A Updated Architectural Elevations, Plans, Renderings and Materials,
- Exhibit B Traffic Impact Study conducted by Gorove/Slade dated June 4, 2015,
- Exhibit C. Witness Resumes

VI.
CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Zoning Commission approve the application

Respectfully submitted,

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